not necessarily specified in a country's constitutional document interact so strongly with the other institutions that we can usefully regard them as a part of the country's constitutional arrangements. In that spirit, we might want to reflect on the peculiarities of our electoral system, which, natural as it may seem to us, is of a species rare to the vanishing point among the advanced democratic countries. Closely allied with it is an equally rare bird, our much revered two-party system.

To be sure, our electoral system was not the doing of the Framers, at least directly, for it was shaped less by them than by British tradition. The Framers simply left the whole matter to the states and Congress,[14] both of which supported the only system they knew, one that had pretty much prevailed in Britain, in the colonies, and in the newly independent states.

The subject of electoral systems is fearfully complex and for many people fearfully dull as well. I shall therefore employ a drastic oversimplification, but one sufficient for our purposes. Let me simply divide electoral systems into two broad types, each with a variant or two. In the one we know best, typically you can cast your vote for only one of the competing candidates, and the candidate with the most votes wins. In the usual case, then, a single candidate wins office by gaining at least one more vote than any of his or her opponents. We Americans tend to call this one-vote margin a plurality; elsewhere, to distinguish it from an absolute majority it may be called a relative majority. To describe our system, American political scientists



sometimes employ the cumbersome expression "single member district system with plurality elections." I prefer the British usage: on the analogy of a horse race where the winner needs only a fraction of a nose-length to win, the British tend to call it the "first-past-the-post" system.

If voters were to cast their ballots in the same proportion in every district, the party with the most votes would win every seat. In practice, as a result of variations from district to district in support for candidates, a second party generally manages to gain some seats, although its percentage of seats will ordinarily be smaller than its percentage of votes. But the representation of third parties usually diminishes to the vanishing point. In short, first-past-the-post favors two-party systems.

The main alternative to first-past-the-post is proportional representation. As the name implies, proportional representation is designed to ensure that voters in a minority larger than some minimal size—say, 5 percent of all voters—will be represented more or less in proportion to their numbers. For example, a group consisting of 20 percent of all voters might win pretty close to 20 percent of the seats in the parliament. Consequently, countries with proportional representation systems are also very likely to have multiparty systems in which three, four, or more parties are represented in the legislature. In short, although the relationship is somewhat imperfect, in general a country with first-past-the-post is likely to have a two-party

system and a country with proportional representation is likely to have a multiparty system.

In the most common system of proportional representation, each party presents voters with a list of its candidates; voters cast their votes for a party's candidates; each party is then awarded a number of seats roughly in proportion to its overall share of the vote. Countries with a list system may also permit voters to indicate their preferences among the party's candidates. The party's seats are then filled by the candidates who are most preferred by the voters. Twelve of the twenty-two advanced democratic countries employ the list system of proportional representation, and another six use some variant of it. (See Appendix B, Table 3.)

Of the four countries without proportional representation, France avoids one of the defects of single-member districts by providing that in parliamentary districts where no candidate receives an absolute majority of votes, a second election will be held in which the two candidates with the highest number of votes compete. This run-off, two-round, or double-ballot system, as it is variously called, thereby ensures that all the members have been elected by a majority of the voters in their constituency.

This leaves the three oddballs with first-past-the-post, a plurality system in single member districts: Canada, the United Kingdom, and the United States. Even in the United Kingdom, the original source on which the Americans drew, the traditional system was



replaced by proportional representation in the 1999 elections to the newly created legislative bodies in Scotland and Wales. Four parties won seats in the Scottish Parliament, and four too in the Welsh Assembly. What is more, the Independent Commission on the Voting System set up by the Labor Party in 1997 to recommend an alternative to first-past-the-post proposed in its report a year later that members of the House of Commons be elected by means of a proportional representation system—a hybrid, to be sure, but one that would ensure greater proportionality between votes and seats in that ancient house.[15] It is altogether possible that one day not far off, Britain will be added to the list of proportional representation countries, leaving only Canada and the United States among the advanced democracies with first-past-the-post.

Although few Americans know much about experience in the other advanced democratic countries with proportional representation and multiparty systems, they seem to have strong prejudices against both. Unwilling to conceive of an alternative to first-past-the-post and under pressure to ensure fairer representation for minorities in state legislatures and Congress, our legislatures and federal courts in recent years have sometimes gerrymandered weirdly shaped districts. . . well, yes, rather like a salamander. But neither legislatures nor courts seem willing to give serious thought to some form of proportional representation as quite possibly a better alternative.

The extent to which we take first-past-the-post for granted was clearly revealed in 1993, when it was discovered that a well-qualified candidate to head the Civil Rights Division of the Department of Justice had written an article in a law journal suggesting that a rather sensible system of proportional representation might be worth considering as a possible solution to the problem of securing more adequate minority representation.[16] From the comments the author's innocent heresy generated, you might have thought that she had burned the American flag on the steps of the Supreme Court. Her candidacy, naturally, was stone dead.

First-past-the-post was the only game in town in 1787 and for some generations thereafter. Like the locomotive, proportional representation had not yet been invented. It was not fully conceived until the mid-nineteenth century when a Dane and two Englishmen—one of them John Stuart Mill—provided a systematic formulation. Since then it has become the system overwhelmingly preferred in the older democracies.

After more than a century of experience with other alternatives, isn't it time at last to open our minds to the possibility that first-past-the-post may be just fine for horse races but might not be best for elections in a large and diverse democratic country like ours? Might we not also want to consider the possible advantages of a multiparty system?

I do not say that we should necessarily make these choices. But should we not at least give them serious